

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

DR 1995-021486

06/15/2012

HONORABLE DAVID M. TALAMANTE

CLERK OF THE COURT
M. Kay
Deputy

IN RE THE MATTER OF
AURALEE E WELLS

STANLEY D MURRAY

AND

I JAY BERNSTEIN

MATTHEW STEVEN SCHULTZ

AG-CHILD SUPPORT-EAST VALLEY
OFFICE

MINUTE ENTRY

Courtroom 403 – SEA

Prior to the commencement of today's proceeding, Petitioner's Exhibits 1 through 9 and Respondent's Exhibits 10 through 26 are marked for identification.

1:41 p.m. This is the time set for Establishment Hearing re: Petitioner's Motion to Set Aside Child Support Order. Petitioner is present telephonically and is represented by above named counsel. Respondent is present and represented by above named counsel. Assistant Attorney General, Rebecca Zilm, is present representing the State of Arizona.

A record of the proceeding is made by audio and/or videotape in lieu of a court reporter.

The Court has reviewed the case file and the pleadings filed by the parties.

Discussion is held regarding the issues to be addressed this date.

For the reasons expressed on the record,

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IT IS ORDERED precluding all evidence regarding child support and medical expenses that pre-dates March 1, 2008.

LET THE RECORD REFLECT counsel for Petitioner makes an offer of proof regarding outstanding medical expenses incurred by Petitioner/Mother since the birth of the minor child.

Pursuant to the agreement of the parties,

IT IS ORDERED that the unreimbursed medical expenses for the minor child for the years of 2008 through 2012 are to be paid proportionate to the child support obligation.

Auralee E. Wells and I Jay Bernstein are sworn.

Petitioner's case:

Auralee E. Wells, previously sworn, now testifies.

Petitioner's Exhibits 1 through 6 and 9 are offered and received in evidence.

LET THE RECORD REFLECT the parties stipulate that Respondent/Father has paid Petitioner/Mother child support in the amount of \$9,240.00 for the time period of June 1, 2011 through June 7, 2012.

The witness is excused.

Petitioner rests.

Respondent's case:

Respondent's Exhibits 11, 13 and 23 are offered but not received in evidence.

Respondent's Exhibits 12, 15, 16, 19 and 26 are offered and received in evidence.

IT IS ORDERED sealing Respondent's Exhibit 16, not to be opened without further Order of the Court.

The witness is excused.

Respondent rests.

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Based on the testimony and evidence presented, with regard to calculation of support,

THE COURT FINDS that there is one minor child over the age of 12; the child has special needs. There is an agreement on the record and set forth in the exhibits as to Respondent/Father's income for 2009, 2010 and 2011. Petitioner/Mother's income for 2008 through 2012 is at issue. Father's income for 2008 and 2012 is at issue as well. Father's position is that the Court should impute income to him for 2008 at \$4,363.00 per month; Mother is requesting that the Court impute income to him at \$5,109.00 per month. For 2012, Father is asking to be imputed income at \$4,500.00 per month and Mother is asking that he be imputed income at \$7,409.00 per month. No issue was presented to the Court regarding medical insurance premiums paid on behalf of the minor child. Daycare costs for all years are at issue. The parties agree that Father should receive a parenting time adjustment of 14 days. Whether or not there is an actual speech therapist monthly expense for purposes of an adjustment to the support calculation or whether the Court should treat that as an unreimbursed medical expense is at issue. The parties have agreed that unreimbursed medical expenses will be paid proportionate to the child support obligation. The transportation expenses of the minor child are potentially at issue however the Court did not hear much testimony on that issue.

LET THE RECORD REFLECT counsel for the State of Arizona, Rebecca Zilm, advises the Court that the Attorney General's Office will prepare the child support calculation worksheet and will submit the same to the Court.

Pursuant to the agreement of the parties,

IT IS ORDERED that Father will pay child support to Mother for the benefit of the child through the age of at least 19.

LET THE RECORD REFLECT the State of Arizona requests that the Court consider whether it is appropriate to enter an order for support after the age of emancipation under A.R.S. §25-320(E). The Court is inclined to find that there is an insufficient factual basis to grant Mother's request.

It appears that allocation of expert fees and attorney's fees are at issue. As it relates to attorney's fees, the Court is unable to issue an inclination at this time regarding disparity of income. The Court did not hear any evidence at all with regard to the actual costs of the experts.

Counsel for Petitioner presents closing arguments to the Court.

Counsel for Respondent presents closing arguments to the Court.

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Counsel for the State of Arizona presents closing arguments to the Court.

IT IS ORDERED taking this matter under advisement.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

Petitioner's Exhibits 7 and 8 and Respondent's Exhibits 10, 14, 17, 18, 20, 21, 22, 24, and 25 are released.

4:11 p.m. Hearing concludes.

FILED: Exhibit Worksheet.

ISSUED: Exhibit Release Forms.

SEALED: Respondent's Exhibit 16 (bank account statements).

LATER:

The Court has received and reviewed Petitioner's Motion to Appoint Tax Practitioner filed on January 11, 2012 and Respondent's Response/Objection thereto.

THE COURT FINDS that Petitioner's Motion to Appoint Tax Practitioner is moot.